

LETTERS PATENT APPEAL No 100 of 96
in
Special Civil Application No 8544 of 95

Date of decision: 09/02/96

For Approval and Signature:

Hon'ble THE ACTG.C.J. RA MEHTA
and
MR.JUSTICE M.S.SHAH

1. Whether Reporters of Local Papers may be allowed to see the judgments ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NAGARJI SOMAJI SOLANKI
vs
STATE OF GUJARAT

Appearance:

MR BIPIN I MEHTA for Petitioner
MR PB MAJMUDAR for Respondent No. 4 & 5
MR DA BAMBHANIA for Respondent No.1 & 3

Coram : THE ACTG.C.J. RA MEHTA & MR.JUSTICE M.S.SHAH
9-2-1996

ORAL JUDGEMENT

The appellant was Secretary of Talod Nagar Panchayat which subsequently came to be converted into Municipality and a Deputy Mamlatdar has been appointed as Chief Officer on deputation. The appellant does not claim, at this stage, the post of Chief Officer. His claim is that he should have been continued in the construction section of the Municipality. By the impugned order, he has been posted and appointed as Special Recovery Officer and his pay is protected. This is in pursuance of the High Court's order in his earlier petition when he had apprehended termination from the post of Secretary in view of the Chief Officer being appointed. By the order, in the earlier Special Civil Application No. 7057 of 1994 passed on 17th December, 1995 {page No. 34 of paper-book}, the learned AGP has stated that as per the circular, services of the appellant, his salary and other conditions will be protected and accommodated in a post equivalent to the earlier post of Secretary; if necessary by creating new post. That has been done. At this stage, there is no question of the appellant being entitled to any relief. The learned single Judge has therefore rightly vacated the interim relief. Hence, this LPA deserves to be dismissed, and accordingly, the same is dismissed with no order as costs. No order on Civil Application.

The learned advocate appearing for the appellant prays that the interim relief granted earlier by the learned Single be ordered to continue for a period of 3 weeks. However, we do not find any justification for such continuation of the same. Hence, this prayer is rejected.

Prakash*